

Remarks

Reconsideration of this Application is respectfully requested.

I. Status of the Claims

Upon entry of the foregoing amendment, claims 1-14, 16-18, and 20-47 are pending in the application, with claims 1, 14, 32, 34, 36, 38, 40 and 41 being the independent claims. Claims 1-13, 16-18 and 32-46 are withdrawn from consideration. Claims 15 and 19 are cancelled. Claim 14 is sought to be amended. Support for the amendment to claim 14 can be found, *inter alia*, in original claims 20, 22, 26, and 28. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

II. Notice Non-Responsive Amendment Dated June 26, 2008

The Examiner has not entered Applicant's submission filed on March 17, 2008 because allegedly it is non-responsive. (Notice of Non-Responsive Amendment, page 2, lines 7-10). Applicants respectfully disagree.

The Examiner asserts that "the originally presented claims . . . were drawn to the elected invention, which directed to a process comprising:

- a) contacting a Transferring Receptor Related Apoptosis Inducing Protein (TRRAIP) with the amino acid sequence of SEQ ID NOS: 1, 2, 3 or 8 with one or more test compounds; and
- b) monitoring whether said one or more test compounds binds to said TRRAIP."

Applicants respectfully disagree that the Amendment filed January 11, 2008, directed the claims to a non-elected invention. However, to further the prosecution of the present application, Applicants have amended claim 14 to recite the language indicated by the Examiner, above, to correspond to the elected invention, and to incorporate the exact language of dependent claims 20, 22, 26, and 28, also corresponding to the elected invention. Therefore, claims 14, 15, 19, 20, 22, 26, and 28 must correspond to the elected invention.

III. Priority

The Examiner contends that claims 14, 20-31, and 37 are not accorded benefit under 35 U.S.C. 119 and/or 120 of U.S. Provisional Appl. No. 60/463,649, filed April 18, 2003. The Examiner contends that claims 14, 20-31, and 37 are not accorded benefit because the claims are rejected under 35 U.S.C. 112, first paragraph, as lacking adequate written description and/or a sufficiently enabling disclosure. (Office Action dated October 17, 2007, page 2, lines 18-21). Applicants respectfully disagree.

The Examiner rejects the claims under 35 U.S.C. 112, first and second paragraphs on the basis that the claims recite the phrase "encoded by." (Office Action dated October 17, 2007, page 3, lines 6-11).

Solely to advance prosecution, Applicants have replaced "encoded by" with "with the amino acid sequence of." Applicants respectfully believe that this amendment addresses the Examiner's ground for rejection.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

IV. Objection to the Specification

The Examiner has maintained the objection to allegedly improper demarcated trademarks in the specification. The Examiner pointed out that Sepharose® (page 69, line 2 of the specification) and Tween® (page 64, line 3 of the specification) are not indicated as trademarks in this application. (Office Action dated October 17, 2007, page 4, lines 3-7).

Solely to advance prosecution, and not in acquiescence of the objection, Applicants have made a *bona fide* attempt to locate all trademarks and have amended the specification accordingly.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

IV. Rejections under 35 U.S.C. § 112, second paragraph

The Examiner has maintained the rejection of claims 14, 20-31 and 47 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. Specifically, the Examiner alleged that claim 14 is indefinite because it recites "encoded by" whereas SEQ ID NO:1, 2, 3 or 8 are all amino acid sequences. (Office Action dated October 17, 2007, page 5,

lines 25-28). The Examiner cites various dictionaries in the biological arts as allegedly supporting that a protein is "encoded by" a nucleotide sequence. Applicants respectfully traverse this rejection.

Solely to advance prosecution, and not in acquiescence to the Examiner's rejection, Applicants have replaced "encoded by" with "with the amino acid sequence of."

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

V. Rejections under 35 U.S.C. § 112, first paragraph (written description)

The Examiner has maintained the rejection of claims 14, 20-31 and 47 under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. (Office Action dated October 17, 2007, page 6, line 24, through page 7, line 8). Applicants respectfully traverse this rejection.

Specifically, the Examiner alleged that the specification lacks a written description for claim 14 because it recites "encoded by" whereas SEQ ID NO:1, 2, 3 or 8 are all amino acid sequences. The Examiner asserts that "it cannot be ascertained how the amino acid sequence of SEQ ID NO:1 encodes a Transferrin Receptor Related Apoptosis Inducing Protein as nucleotide sequences encode proteins" and that therefore, "the claims are drawn to a structurally and functionally diverse genus of Transferrin Receptor Related Apoptosis Inducing Proteins. . ." (Office Action dated October 17, 2007, page 5, line 26, through page 6, line 2).

In addition, the Examiner also rejected claims 14, 20-31 and 47 on the ground that allegedly neither the specification nor claims as originally filed provides written support for the "encoded by" language in the claims. (Office Action dated October 17, 2007, page 10, line 26, through page 11, line 2).

Solely to advance prosecution, and not in acquiescence to the Examiner's rejection, Applicants have replaced "encoded by" with "with the amino acid sequence of." Applicants respectfully believe that this amendment addresses the Examiner's ground for rejection.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw these rejections.

V. Rejections under 35 U.S.C. § 112, first paragraph (enablement)

The Examiner rejected claims 14, 20-31 and 47 under 35 U.S.C. § 112, first paragraph, as allegedly not enabled. The Examiner rejected the claims on the ground that one of skill in the art could not ascertain how SEQ ID NO:1 encodes a Transferrin Receptor Related Apoptosis Inducing Protein (TRRAIP) as SEQ ID NO:1 is an amino acid sequence and therefore, one of skill would be subject to undue experimentation to make a Transferrin Receptor Related Apoptosis Inducing Protein (TRRAIP) "encoded by" SEQ ID NO:1, 2, 3, or 8 to practice the claimed invention. (Office Action dated October 17, 2007, page 9, lines 25-28). Applicants respectfully traverse this rejection.

Solely to advance prosecution, and not in acquiescence to the Examiner's rejection, Applicants have replaced "encoded by" with "with the amino acid sequence

of." Applicants respectfully believe that this amendment addresses the Examiner's ground for rejection.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw these rejections.

Based on the above amendments and remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

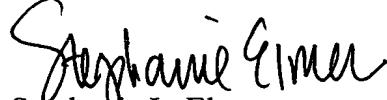
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully
requested.

Respectfully submitted,

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